

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service; Review of the)	
Definition of Universal Service)	

COMMENTS OF AT&T CORP.

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Pursuant to Section 1.415 of the Commission's rules, 47 C.F.R. § 1.415, AT&T Corp. ("AT&T") submits these comments in response to the Commission's Public Notice in the above-captioned proceeding.^{1/}

INTRODUCTION AND SUMMARY

The Federal-State Joint Board on Universal Service ("Joint Board") seeks comment on proposed changes to the definition of universal service. In particular, the Joint Board asks whether "advanced or high-speed services should be included within the list of core services," and "whether support for a network transmission component of Internet access beyond the existing definition of voice grade access is warranted at this time."^{2/} As discussed below, to promote the availability of telecommunications services to all consumers at just and reasonable rates, the Joint Board should recommend that the Commission retain its current definitions of voice grade access and its current list of supported services.

^{1/} *Public Notice*, Federal-State Joint Board on Universal Service Seeks Comment on Review of the Definition of Universal Service, CC Docket No. 96-45 (rel. Aug. 21, 2001) ("*Notice*").

^{2/} *Notice* at 3.

Neither advanced and high-speed services nor a “transmission component” of Internet access beyond existing voice grade access standards meets the criteria of section 254 of the Communications Act for universal service support. Specifically, they are not “subscribed to by a substantial majority of residential customers” in the United States and are not “essential to education, public health, or public safety.” Indeed, although these services are widely available and heavily advertised, only a small segment of the population subscribes to them today. Including advanced services on the list of supported services or expanding the definition of voice grade access to encompass high-speed Internet transmission would contravene Congress’s intent to limit support to “essential” services, so that the basic cost of telecommunications service does not increase unreasonably for all.

Expanding the definition of voice grade access to encompass high-speed Internet transmission also would undermine the Commission’s policy of ensuring competitive neutrality among technologies. Under section 214(e) of the Communications Act, a provider must offer *all* of the core services to be designated an “eligible telecommunications carrier.” Many entities, however, provide advanced services only, and they would be unfairly forced to compete against the subsidized advanced services offerings of established telecommunications providers that also offer the core services. Similarly, other providers are not technologically capable of deploying advanced services or their business plans cannot support expansion into this market today.

In any event, there is no need to include advanced or high-speed services in the definition of universal service to further the availability of such services. Deployment of high-speed Internet service and other advanced services by a number of providers using diverse technologies is already occurring through natural market forces. The appropriate means of ensuring that those

efforts continue is not an expansion of the universal service fund, but a reinvigorated commitment to the pro-competitive principles of the Telecommunications Act of 1996.

I. ADVANCED AND HIGH-SPEED SERVICES DO NOT MEET THE LEGAL REQUIREMENTS FOR UNIVERSAL SERVICE SUPPORT.

A. Including Advanced Services in the Definition of Universal Service Would Be Inconsistent with the Communications Act.

Neither advanced or high-speed services nor Internet transmission beyond existing voice grade access standards meets the Communications Act's clear guidelines for eligibility for universal service support. Under Section 254 of the Act, the Joint Board is directed to recommend, and the Commission is directed to establish, that telecommunications services be supported by universal service support mechanisms when they:

- (A) are essential to education, public health, or public safety;
- (B) have, through the operation of market choices by customers, been subscribed to by a substantial majority of residential customers;
- (C) are being deployed in public telecommunications networks by telecommunications carriers; and
- (D) are consistent with the public interest, convenience, and necessity.^{3/}

The high-speed services discussed in the *Notice* are not subscribed to by a "substantial majority of residential customers," and thus, on this basis alone, should not be recommended for universal service support. In its most recent evaluation of the deployment of advanced services to all Americans, the Commission estimated, based on data it had collected, that as of December 31, 2000, there were 5.2 million residential and small business high-speed lines in

^{3/} 47 U.S.C. § 254(c)(1).

service, of which approximately 2.8 million were for advanced service.^{4/} These numbers indicate a penetration rate of 4.7 percent for high-speed services, and 2.6 percent for advanced services.^{5/} Subscribers to these services resided in all fifty states, the District of Columbia, and Puerto Rico, in 75 percent of the country's zip codes, representing the zip codes where 96 percent of the population lives.^{6/} Thus, although high-speed and advanced services are being offered throughout the United States, and even assuming that subscribership has increased during 2001, these services are subscribed to by significantly less than a "substantial majority" of residential customers.

Even looking solely at the network transmission component of Internet access, there is no justification for expanding the definition of voice grade to encompass a higher transmission speed. In 1997, the Commission concluded that

a network transmission component of Internet access beyond voice grade access should not be supported separately from voice grade access to the public switched network because the record does not indicate that a substantial majority of residential customers currently subscribe to Internet access by using access links that provide higher quality than voice grade access.^{7/}

Today, as in 1997, the vast majority of subscribers continue to access the Internet through dial-up connections. The record simply does not warrant providing support for a higher bandwidth capacity at this point.

^{4/} *Inquiry Concerning Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps To Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, Third Notice of Inquiry*, CC Docket No. 98-146, 2001 FCC LEXIS 4322, ¶ 12 (rel. Aug. 10, 2001) ("706 Third NOI").

^{5/} *Id.* Of course, the penetration rates for only residential subscribers would be even less.

^{6/} *Id.* ¶ 13.

^{7/} *Federal-State Joint Board On Universal Service*, 12 FCC Rcd 8776, ¶ 83 (1997) (internal citations omitted). *See also id.* ¶ 64 (noting concern that including a service that was not widely subscribed to would increase cost of basic telecommunications services for all subscribers).

Further, the relatively small number of subscribers to such services in proportion to the services' availability demonstrates that these services cannot be considered "essential," and thus fail to meet that prerequisite as well. While advanced services offer significant benefits to the subscriber, basic telecommunications service allows consumers to access emergency medical care, family, friends and business -- in short, the necessities of daily life. In large part, access to advanced services or a faster Internet transmission speed merely allows consumers faster and more robust access to those same services. Although this improved access is desirable, it certainly is not critical to public health, safety or education.

B. Redefining Voice Grade Internet Access Would Violate Requirements of Competitive Neutrality.

The Commission has established "competitive neutrality" as an "additional principle upon which [it] base[s] policies for the preservation and advancement of universal service."^{8/} In this context, the Commission has held that "competitive neutrality means that universal service support mechanisms and rules neither unfairly advantage nor disadvantage one provider over another, and neither unfairly favor nor disfavor one technology over another."^{9/} Modifying the definition of voice grade Internet access as proposed in the *Notice* would undermine these principles by benefiting incumbent local exchange carriers ("ILECs") and DSL technology over providers of other advanced technologies, including cable modem service. In addition, it would disadvantage carriers that offer solely basic telecommunications services.

^{8/} *Id.* ¶¶ 46-47.

^{9/} *Id.*

Under section 214(e), carriers seeking universal service support for a particular service must offer all the “core” services designated by the Commission.^{10/} This means that if high-speed Internet access service were added to the list, all carriers seeking support would have to offer the nine basic telephony services as well as the newly-added services. Such a rule clearly would advantage ILECs because they already offer both basic telephony and DSL services. Cable operators, in contrast, would not be eligible for support for their cable modem service offerings because cable modem service, as currently configured, does not include a severable transmission path and because it is not a telecommunications service.^{11/}

Moreover, even if the Commission were to determine that cable modem service qualifies as a high-speed telecommunications service for support purposes, cable operators generally do not, and have no plans to, offer the nine basic telephony services. The same is likely true of data LECs and many competitive DSL providers. As the Commission has recognized, “requiring competitive LECs to provide voice services could require large investments . . . that may have little to do with a [carrier’s] intention to offer advanced data services” and “requiring this investment diverts financial resources and management focus away from competitive LECs’ ability to offer advanced services.”^{12/} Imposing requirements that frustrate carriers’ ability to offer advanced services “is wholly inconsistent with the goals of section 706 of the 1996 Act and

^{10/} See *id.* ¶ 24 (“[p]ursuant to section 214(e), eligible carriers must offer and advertise all the services supported by federal universal service support mechanisms throughout their service areas using their own facilities or a combination of their own facilities and resale of another carrier’s services”).

^{11/} See *Inquiry Concerning High Speed Access to the Internet Over Cable and Other Facilities*, GN Docket No. 00-185, Comments of AT&T Corp. (filed Dec. 1, 2000). Under section 254(c)(1), only “telecommunications services” are eligible for universal service support.

^{12/} *Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, 14 FCC Rcd 20912, ¶ 45 (1999).

the deployment of efficient networks.”^{13/} Further, redefining voice grade Internet access or including advanced services on the list would require these entities to compete with the subsidized DSL offerings of the largest carriers in the nation. Similarly, expanding the list of core services could harm the many providers of telephone service (especially those in rural areas) that may lack the financial and technological means to offer advanced or high-speed services to their customers.

II. INCLUDING ADVANCED SERVICES ON THE LIST OF SUPPORTED SERVICES OR EXPANDING THE DEFINITION OF VOICE GRADE ACCESS WOULD NOT SERVE THE PUBLIC INTEREST.

A. An Overly Expansive List of Supported Services Increases the Costs of Basic Telecommunications Service for All Consumers.

Although “all four criteria enumerated in section 254(c)(1) must be considered, but not each necessarily met”^{14/} before adding a service to the list of core services, the Commission must first determine that to do so would be in the public interest. As the Commission has recognized, “supporting an overly expansive definition of core services could adversely affect all consumers by increasing the expense of the universal service program and, thus, increasing the basic cost of telecommunications services for all.”^{15/} The risk of increasing basic telecommunications costs would be particularly great if advanced and high-speed services were included for universal service support because upgrading telecommunications networks to provide advanced services is extremely expensive. In recognition of this fact, the Commission specifically indicated in the past an intent to refrain from including high-speed service on the list of supported services until

^{13/} *Id.*

^{14/} *Federal-State Joint Board On Universal Service*, 12 FCC Rcd 8776 at ¶ 61.

^{15/} *Id.* ¶ 64.

such time as it meets the criteria of section 254(c).^{16/} Given that those standards have not yet been met, adding advanced services to the list of supported services would unnecessarily expand the costs of universal service for all consumers.

B. Access to Advanced Services and the Internet Is Already Occurring Without the Need to Revise the List of Supported Services or Expand the Definition of Voice Grade Access.

The purpose of universal service support is to ensure that quality service is available at just, reasonable, and affordable rates, and that access to such services be provided in “all regions of the Nation,” including “low income consumers and those in rural, insular, and high cost areas.”^{17/} There is no need to expand the definition of supported services to include advanced services or a network transmission component beyond voice grade access to meet these goals because these services already are being deployed.

In its most recent report on advanced services implementation, the Commission concluded that “advanced telecommunications capability is being deployed in a reasonable and timely fashion” and that there is “significant investment in the facilities needed to provide advanced telecommunications capability, steadily rising subscription rates for advanced services, and a proliferation of providers in the marketplace.”^{18/} Although the Commission noted that certain groups of consumers, such as those in rural or low-income areas, may be receiving

^{16/} See *Federal-State Joint Board on Universal Service*, 13 FCC Rcd 11501, ¶ 104 (1998) (emphasis added) (“it appears that universal service funds could be used to ensure rural and high-cost areas have affordable access to high-speed data transmission services, such as xDSL, when those services meet the criteria for support outlined in section 254(c)”).

^{17/} 47 U.S.C. §§ 254(b)(1)-(3).

^{18/} *Inquiry Concerning Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps To Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, Second Report*, 15 FCC Rcd 20913 (2000).

“untimely access to this capability,”^{19/} the comments submitted in response to the Commission’s advanced services inquiry demonstrate that the marketplace has responded to these concerns.

The vast majority of commenters, including ILECs, CLECs, cable operators and satellite providers, submitted evidence that implementation of advanced services is taking place in rural as well as in more densely populated areas, and that multiple competing technologies and vendors are deploying advanced telecommunications capability.^{20/}

AT&T has demonstrated its commitment to bringing advanced services to all Americans by supporting numerous productive efforts to close the digital information gap. Such efforts include:

- ***National Minority Supplier Development Council*** – AT&T has contributed more than \$1.2 million in support to the National Minority Supplier Development Council to enable it to teach technical and entrepreneurial skills to minority-owned companies, and through the Business Minority Fund to assist with capital investment to expand their business to high-tech markets.
- ***National Newspaper Publishers’ Association Foundation*** – AT&T is providing \$125,000 to the National Newspaper Publishers’ Association Foundation to support the development of websites for 50 weekly Black community newspapers.
- ***Cable Services*** – AT&T Broadband offers free cable modem and service to every school and library in its area of service, and through its support for Cable in the Classroom, provides a free cable connection and over 540 hours per month of commercial-free educational programming to schools.
- ***United Negro College Fund*** – AT&T awarded a three-year \$1 million grant to UNCF’s Technology Enhancement Program to help train faculty in the use of technology to improve teaching and learning at their 39 member institutions.
- ***Technology Leadership Program*** – AT&T’s Learning Network is investing \$1 million to develop a new training and education initiative, “Technology Leadership Program,” to help bridge the digital divide in ten underprivileged communities including Atlanta, Boston, Chicago, Los Angeles, the Mississippi Delta, New York City, Oakland, Pittsburgh, the Rio Grande Valley, and Washington, D.C. The program will provide

^{19/} *Id.* ¶ 1.

^{20/} See comments filed in response to 706 Third NOI (filed Sept. 24, 2001).

training for teachers, community members, and young people to allow them to become technology leaders capable of using technology and teaching others to do the same.

- ***Bay Area Video Coalition*** – AT&T is supporting this San Francisco organization with a \$250,000 grant to develop and launch a prototype for a full e-Learning Center. The center will enable BAVC to scale-up *JobLink*, an award-winning model technology workforce development program, connecting low-income communities with critically unfilled jobs in the digital media industry through training, placement and ongoing support. The core audience for this BAVC *JobLink* e-Learning Center includes regional organizations responsible for implementing training initiatives with community access centers, neighborhood career centers, social service providers, welfare-to-work programs, school-to-career programs, one-stop centers and others.
- ***Community Arts Partnership*** – AT&T is awarding a \$300,000 grant to the *California Institute of the Arts* to enable the Community Arts Partnership's education programs to reach ten community arts organizations training underserved youth in the Los Angeles. This grant will also help support CalArts in matching a grant from the U.S. Department of Commerce/Technology Opportunities Program for CAP's Digital Arts Network (DAN). The DAN Project will address the pervasive lack of telecommunications in low-income areas by equipping and connecting each CAP partner with computers, video teleconferencing and broadband Internet capability at 10 sites in Hollywood, Los Angeles, Pasadena, Santa Clarita and Watts. The DAN Project will provide 600 teens each year with education and training using technology to enhance their skills.
- ***Chicago Public Library*** – A \$175,000 grant will provide free public access to computers and the Internet throughout Chicago to ensure that the public can use these technology resources effectively. AT&T's model *Cyber Navigator Program* will join with the Chicago Public Library's Tech 37, a new after-school technology initiative, to involve high school students shadowing college-age *Cyber Navigator* mentors. In collaboration with Cable in the Classroom, the AT&T Broadband mobile computer lab will extend the AT&T *Cyber Navigator* concept to additional city and suburban libraries that do not have their own computer facilities.
- ***National Urban League's Black Executive Exchange Program (BEEP)*** – A \$150,000 grant is awarded to the National Urban League to develop a technology initiative to strengthen their own organizational capacity to deliver programs and to train BEEP faculty to deliver technology workshops on Historically Black College and University campuses.
- ***Virginia Foundation for Independent Colleges*** – A \$300,000 grant is awarded to support TechRiders, a new program that delivers access to technology and training through faith-based institutions. TechRiders takes laptop computers into churches and employs college students to conduct free courses on the fundamentals of using the computer and the Internet. A pilot program in African-American churches in Virginia initiated an overwhelming response with 78 churches and more than 3200 people participating.

- ***The Children's Partnership*** – This national child and family advocacy organization is awarded a \$300,000 grant to support the *Leadership Development for Policymakers* project. This project includes briefing kits, outreach & training, and building accessible on-line resources to introduce children's technology issues to policymakers and provide actionable steps for involvement to assure low-income children can receive the benefits of the digital economy.
- ***Xavier University*** – A grant of \$250,000 is awarded to support the development of a distributed, on-line education program, as well as *Project SOAR* (Stress on Analytical Reasoning), a computer scholars summer program for minority high school students.
- ***NAACP and the National Urban League*** – AT&T is contributing more than \$500,000 to both the NAACP and the National Urban League in seven states and the District of Columbia to give under-resourced communities access to technology by investing in Internet-based "community technology centers" to provide hands-on skills training.
- ***Los Angeles County Office of Education*** – AT&T grants of more than \$1.25 million support the L.A. County Office of Education's Technology for Learning Initiative to establish neighborhood-based technology centers. AT&T also supports LACOE's partnership with the Greenlining Institute, a multi-ethnic advocacy center, to help reach communities of color and other under-served groups.
- ***Puente Learning Center*** – AT&T is contributing \$50,000 to support The Puente Learning Center in South Central Los Angeles to help provide free computer-based education programs to children, youth and adults, and to encourage other community agencies to do the same.
- ***United Neighborhood Houses*** – AT&T helps settlement houses in New York City serve as centers where technology resources can be accessed, shared and used by settlement staff, community residents and program participants.

Because advanced services are being provided to "all regions of the Nation" through normal market forces, there is no need to burden the universal service program -- and ultimately, consumers -- with the significant costs of supporting advanced services deployment. Rather, there are actions the Commission can and should take to ensure that advanced services deployment is even faster and more widespread in the future. In particular, the Commission can foster the competitive availability of advanced capabilities through vigorous enforcement of the market-opening requirements of the 1996 Act. Strengthening enforcement and imposing the

highest possible penalties for violations of the Act would go a long way toward spurring the deployment of advanced telecommunications capability.

CONCLUSION

For the above reasons, the Joint Board should recommend that the Commission retain its current definition of voice grade access, and its current list of supported services.

Respectfully submitted,
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CERTIFICATE OF SERVICE

I, Tara M. Corvo, hereby certify that on this 5th day of November 2001, I caused a copy of the foregoing "Comments of AT&T Corp." to be sent to the following by hand delivery:

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